

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7653

Investigation into the indirect acquisition of a controlling)
interest in Ascutney Mountain Water Public Service)
Company by UTVT Holdings, Inc., without the prior)
approval of the Public Service Board under 30 V.S.A.)
§ 107, and into disputes related to the change in control)
that may affect the Company's operations)

Order entered: 9/30/2010

PREHEARING CONFERENCE MEMORANDUM

The Public Service Board ("Board") issued an Order on September 16, 2010, opening an investigation to review a change in the indirect ownership of Ascutney Mountain Water Public Service Company ("Company") and related issues. This Order followed filings by Mr. Steven Plaustainer on July 22, 2010, and the Vermont Department of Public Service ("Department") on July 30, 2010. In his filing, Mr. Plaustainer advised the Board that UTVT Holdings, Inc. ("UTVT") had acquired the membership interests of Steven and Susan Plaustainer in Snowdance LLC ("Snowdance"), the sole owner of the Company. In its filing, the Department advised the Board about issues and disputes related to change in control of the Company, attached a letter from UTVT the Department had received, and recommended that the Board open an investigation.

I convened a prehearing conference on September 28, 2010. The following parties entered appearances: Geoffrey Commons, Esq., for the Department; Mark Blundell, Chief Executive Officer of UTVT, for UTVT; and Steven Plaustainer, pro se. Also appearing at the prehearing conference were: Nathan H. Stearns, Esq., of Hershenson, Carter, Scott and McGee P.C. for the Ascutney Mountain Property Owners Association ("AMPOA"); Glenn C. Howland, Esq., of McGee, Giuliani & Cleveland, for OLCC Vt. LLC ("Orange Lake"); J. Christopher Callahan, Esq., of Brady & Callahan, P.C., for the Town of Windsor ("Windsor"); Matthew T. Birmingham III, Esq., of Birmingham & Moore, P.C., for both the Town of West Windsor ("West Windsor") and W.A.S.T.E., a non-profit organization.

Each of AMPOA, Orange Lake, Windsor, West Windsor and W.A.S.T.E. made motions to intervene in this proceeding to which none of the parties objected. All the motions for intervention were granted under Board Rule 2.209(B). In addition to the motions to intervene, Orange Lake seeks to join a secured lender of Snowdance, MFW, as a party to this proceeding and plans to file a written motion to that effect with the Board.

The intervening parties are reminded that the Board's jurisdiction is limited to matters affecting the Company and its provision of water service. However, this limitation on Board jurisdiction does not affect the parties' ability to reach a more comprehensive resolution of related issues (for example, wastewater arrangements) in an agreement among themselves. All the parties are also reminded of the requirement to file a notice of appearance with the Board under Board Rule 2.201(A).

The parties and I discussed a schedule for the proceeding, and the parties agreed to the following partial schedule, which I adopt:

Orange Lake's Motion to Join Secured Lender ¹	October 5, 2010
Initial discovery requests	October 7, 2010
Deadline for any additional intervention motions	October 12, 2010
Filings by UTVT and Mr. Plaustein ²	October 21, 2010
Discovery responses, if any, not included in filings	October 21, 2010
Responses to Orange Lake's Motion for Joinder	October 21, 2010
Responses to motions to intervene	October 21, 2010
Discovery on UTVT and Plaustein filings	November 3, 2010
Discovery responses	November 17, 2010
Status Conference	December 8, 2010

1. Orange Lake agreed to serve this motion on the Secured Lender as well as on the other parties.

2. While the filings by UTVT and Mr. Plaustein may or may not be in the form of prefiled testimony, the parties intend that they be treated as if they were prefiled testimony that may be admitted into the record as sworn evidence at a technical hearing. Although UTVT and Mr. Plaustein are not required to do so, it is anticipated that they will include responses to discovery requests in the prefiled testimony or other filing they make with the Board on October 21. The intervening parties plan to coordinate and combine their discovery requests to avoid duplication and reduce the burden on UTVT and Mr. Plaustein in responding to discovery.

The remainder of the schedule, including a date for a technical hearing (if necessary), will be discussed at the status conference on December 8, 2010.

As the acquiring party, UTVT has the responsibility under 30 V.S.A. § 107 of describing the background of the acquisition and setting forth the reasons why the acquisition promotes the public good and should be approved. In its filing with the Board on October 21, 2010, UTVT should provide such description and support, should detail the existence and status of issues and disputes related to the Company and the change in ownership, and may include responses to discovery requests³ as well any other information UTVT believes may be relevant to Board determinations in this proceeding. In his filing on October 21, 2010, Mr. Plaustainer should also provide a description of the background of the acquisition and may include responses to discovery requests,⁴ descriptions and explanations of any practices, issues or disputes related to the Company or the change in ownership, and any other information Mr. Plaustainer believes may be relevant to Board determinations in this proceeding.

The Board will not require six copies of all filings as provided in Board Rule 2.204(D). Instead, in this proceeding, the parties will be required to file an original and two copies of all filings with the Board. The parties are also reminded of their obligation to provide a copy of each filing to each of the other parties in this docket. To the extent feasible, it would also be helpful if the parties could provide the Board with an electronic copy via e-mail of any filing made with the Board in addition to the required paper copies. One copy of each set of discovery requests and responses should also be provided to the Board.

SO ORDERED.

3. Any discovery responses not included in the UTVT filing with the Board should be separately provided to the requesting parties by October 21, 2010, with one copy provided to the Board.

4. Any discovery responses not included in Mr. Plaustainer's filing with the Board should be separately provided to the requesting parties by October 21, 2010, with one copy provided to the Board.

Dated at Montpelier, Vermont, this 30th day of September, 2010.

s/ Lars Bang-Jensen, Esq.

Lars Bang-Jensen
Hearing Officer

OFFICE OF THE CLERK

FILED: September 30, 2010

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)